



City of Raleigh

Request for Qualification # 274-102018

Title: Architectural Services

Issue Date: January 12, 2018

Proposal Opening Date: 02/16/2018

At 4:00 PM ET

Issuing Department: Housing & Neighborhoods Department
Community Development Division

Direct all inquiries concerning this RFQ to:

Hillary Leacock

CD Construction Manager

Email: [hillary.leacock@raleighnc.gov]

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1 REQUEST FOR PROPOSALS

1.1 Introduction

The City of Raleigh, North Carolina Housing and Neighborhoods Department, Community Development Division (“CD”), is seeking Design services from a firm (“Consultant”) located in the Raleigh area.

1.2 Background

The City of Raleigh, the Capital City of North Carolina, remains one of the fastest growing areas in the country. A great economy, top educational institutions, and exceptional health care facilities are some of the characteristics that attract people to the triangle area. The mild climate, diverse work force and proximity to Research Triangle Park combine to make Raleigh a great place to live.

Raleigh is a 21st Century City of Innovation focusing on environmental, cultural, and economic sustainability. The City conserves and protects our environmental resources through best practice and cutting-edge conservation and stewardship, land use, infrastructure and building technologies. The City welcomes growth and diversity through policies and programs that will protect and enhance Raleigh’s existing neighborhoods, natural amenities, history, and cultural and human resources for future generations. The City leads to improve quality of life for neighborhoods and standard of living for all citizens. The City works with universities, colleges, citizens, and local partners to promote new technology, create new job opportunities, and encourage local businesses and entrepreneurs. The City enlists and prepares 21st Century staff with the skill sets to carry out the duties of the City through transparent civic engagement and by providing the very best customer service to our citizens in the most efficient and cost-effective manner.

1.3 RFQ Response Timeline

The RFQ process shall adhere to the following schedule:

RFQ Process	Date and time	
RFQ posted	January 12, 2018	4:00 PM
Pre-Proposal Conference	N/A	
Proposers Written Questions Due	January 16, 2018	Noon
City Responses to Proposers questions	January 23, 2018	4:00 PM
RFQ Due Date - Proposals Due from Proposers	February 16, 2018	4:00 PM

Note: All times shown as Eastern Standard Time (EST).

1.4 Pre-Proposal Conference/Site Visit

NOTE: Questions concerning the specifications in this Request for Proposals will be received until February 16, 2018, at 4:00 PM. A summary of all questions and answers will be posted on the internet as an addendum, located under the RFQ #274-274-102018 being modified.

It is the Proposer's responsibility to assure that all addenda have been reviewed and, if need be, signed and returned.

1.5 **Proposal Questions**

Upon review of the RFQ documents, Proposers may have questions to clarify or interpret the RFQ in order to submit the best proposal possible. To accommodate the Proposal Questions process, Proposers shall submit any such questions by the above Proposers Written Questions due date.

1.6 **Proposal Submission Requirements and Contact Information**

Proposals must follow the format as defined in Section 3 PROPOSAL FORMAT.

Proposers must submit one (1) signed original plus one (1) electronic version and two (2) copies, of the (*Design Services*) – (*Housing & Neighborhoods Department-Community Development Division*) signed proposal. The electronic version of the Proposal must be submitted as a viewable and printable Adobe Portable Document File (PDF) on a Flash Drive attached to the proposal. Proposals must be enclosed in a sealed envelope or package and clearly marked: (*Design Services*). Both hard copy and electronic versions must be received by the City on or before (4:00PM) PM EST on the RFQ (*February 16, 2018*). Deliver proposals to the following mailing / physical address:

<u>DELIVERED BY US POSTAL SERVICE</u>	<u>DELIVERED BY ANY OTHER MEANS</u>
RFQ NO. <u>274-102018</u> PO Box 590 Raleigh, NC 27601	RFQ NO. <u>274-102018</u> 421 Fayetteville Street, Suite 1200, 12 th Floor One City Plaza Raleigh, NC 27601

Proposals received after the “RFQ Due” deadline above will not be considered and will be returned unopened to the return address on the submission envelope. The outside of the submittal package and the Flash drive must be clearly marked with the RFQ number and the Title. The City reserves the right to reject any or all proposals for any reason and to waive any informality it deems in its best interest. Any requirements in the RFQ that cannot be met must be indicated in the proposal. Proposers must respond to the entire Request for Proposals (RFQ). Any proposals received by the City that are incomplete in their responses will be immediately disqualified.

1.7 **Rights to Submitted Material**

All proposals, responses, inquiries, or correspondence relating to or in reference to this RFQ, and all reports, charts, and other documentation submitted by Proposers (other than materials submitted as and qualifying as trade secrets under North Carolina law) shall become the property of the City when received and the entire proposal shall be subject to the public records laws of the State of North Carolina except where a proper trade secrets exception has been made by the Proposer in accordance with the procedures allowed by North Carolina law.

The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the Proposer of the conditions contained in this Request for Proposal.

2 PROPOSALS

Responses must follow the format outlined herein. The City may reject as non-responsive at its sole discretion any proposal or any part thereof that is incomplete, inadequate in its response, or departs in any substantive way from the required format. Proposal responses shall be organized in the following manner:

1. Cover letter / Letter of Intent
2. Corporate Background and Experience
3. Financial Statement (if applicable)
4. Project Understanding, Approach and Schedule
5. Team Organization, Experience and Certifications/Qualifications
6. Unit Price

1. Cover Letter/Letter of Intent

Introduction letter with intent as it may pertain to the Request for Proposal.

2. Corporate Background and Experience

This section shall include background information on the organization and should give details of experience with similar projects. A list of five (5) references (including contact persons and telephone numbers) for which similar work has been performed shall be included, and the list shall include all similar contracts performed by the Proposer in the past five years. The evaluators will randomly select at least three of these references, but the evaluators reserve the right to contact all the references listed, if information from the three references contacted warrant further inquiry. The failure to list all similar contracts in the specified period may result in the rejection of the Proposer's proposal. The evaluators may check all public sources to determine whether Proposer has listed all contracts for similar work within the designated period. If the evaluators determine that references for other public contracts for similar contracts were not listed, the evaluators may contact the public entities to make inquiry into Proposer's performance of those contracts and the information obtained may be considered in evaluating Proposer's proposal.

3. Financial Statement

The Proposer shall provide the following financial information:

Recent audited or reviewed financial statements prepared by an independent certified public accountant (CPA) that shall include, at a minimum, a balance sheet, income statement (i.e., profit/loss statement) and cash flow statement **and**, if the audited or reviewed financial statements were prepared more than six (6) months prior to the issuance of this RFQ, the Proposer shall submit its most recent internal financial statements (balance sheet, income statement and cash flow statement or budget with entries reflecting revenues and expenditures from the date of the audited or reviewed financial statements to the end of the most recent financial reporting period (i.e., the quarter or month preceding the issuance date of this RFQ)).

Consolidated financial statements of the Proposer's parent or related corporation/business entity shall not be considered, unless: (1) the Proposer's actual financial performance for the designated period is separately identified in and/or attached to the consolidated statements, (2) the parent or related corporation/business entity provides the State with a document wherein the parent or related corporation/business entity will be financially responsible for the Proposer's performance of the

contract and the consolidated statement demonstrates the parent or related corporation's/business entity's financial ability to perform the contract, financial stability and/or such other financial considerations identified in the evaluation criteria; and/or (3) Proposer provides its own internally prepared financial statements and such other evidence of its own financial stability identified above.

The Proposer's failure to provide any of the above-referenced financial statements or failure to submit all the requested financial statements may result in the rejection of the Proposer's proposal and rejection is more likely to occur if other Proposers provide financial documentation in compliance with the foregoing provisions. Proposers are also encouraged to explain any negative financial information in its financial statements and are encouraged to provide documentation supporting those explanations.

All financial information, statements and/or documents provided in response to this proposal requirement shall be kept confidential, IF THE PROPOSER COMPLIES WITH PARAGRAPH 13 OF THE GENERAL INFORMATION ON SUBMITTING PROPOSALS BY MARKING THE FINANCIAL INFORMATION, STATEMENTS AND/OR DOCUMENTS CONFIDENTIAL.

4. Project Understanding, Approach and Schedule

This section shall include, in narrative, outline, and/or graph form the Proposer's approach to accomplishing the tasks outlined in the Scope of Work section of this RFQ. A description of each task and deliverable and the schedule for accomplishing each shall be included.

5. Team Organization, Experience and Certifications/Qualifications

This section must include the proposed staffing, deployment and organization of personnel to be assigned to this project. The Proposer shall provide information as to the qualifications and experience of all executive, managerial, legal, and professional personnel to be assigned to this project, including resumes citing experience with similar projects and the responsibilities to be assigned to each person.

6. Unit Price

2.1 Request for Qualification Document

The RFQ is comprised of the base RFQ document, any attachments, and any addenda released before Contract award. All attachments and addenda released for this RFQ in advance of any Contract award are incorporated herein by reference.

2.2 Evaluation Criteria

This is not a bid. There will not be a public bid opening. Proposals will be evaluated based on the following criteria:

(Not to be completed by the applicant)

Purpose of this measure

This measurement tool is for allowing evaluators to make comparisons between qualifications based on background and experience criteria. It is not meant as a final arbiter of selection. The measure will help evaluators make the best choices.

TO BE COMPLETED BY EVALUTATORS

Request for Qualifications

Name of Organization: _____

Contact person: _____

Contact person's phone number: _____

1. Comments from resume.

Point Rating:

2. Five years' experience as Design/Engineering Consultant:

Yes: Points (2) _____

No: _____ Points (0) _____

3. Number of houses/lots completed per category function.

<u>Rating Key</u>	
No. of Houses/lots:	Points:
Less than 50 houses/lots	2 pts
50-150 houses/lots	3 pts
More than 150 houses/lots	4 pts

Use the Rating Key above to rate the functions (below) for this candidate:

Consultant types are abbreviated as follows: (RD) – Schematic Level Rehab Design, (A) – Architecture, (SE) – Structural Engineer

Include Below:	Consultant Type(s)	Points Awarded
Single-line Dimensioned Retrofit Sketches	RD	
Material Specifications	RD, A	
Cost Estimates	RD, A, SE, CE, LA	
Architectural Design	A	
Written Structural Reports	SE	
Dimensioned Floor Plans	SE	
Design Evaluation	A, CE, LA	

Design Modification	A, CE, LA	
Conceptual neighborhood design/planning	A, CE, LA	
Construction Inspection	A, SE, CE, LA	
Construction Oversight	A	
Construction Administration	CE, LA	
Technical services (i.e. recombination, subdivision plans, ROW closing, rezoning, site plan approvals, etc.)	CE, LA	
Developing construction budget/estimates	CE	

4. Experience as a design/engineering consultant.

Yes: Points (5) _____

No: Points (0) _____

5. How many houses were funded by HUD funds?

Less than 50 houses: Points (2) _____

Between 50 & 150 houses: Points (3) _____

More than 150 houses: Points (4) _____

6. HUD rehab program audit?

Yes: Points (5) _____

No:

Points (0) _____

7. Comment on sample work specifications.

a. Computer generated?

____ Yes:

Points (5) _____

____ No:

Points (0) _____

b. Rate work sample for thoroughness and detail:

Points (1-5) _____

Total Score for all qualifications:

Points (total) _____

Evaluation completed by: _____
Signature

Date

2.3 Final Selection

Proposals will be reviewed after opening and will be ranked in order of choice. All Proposers will be notified of their standing immediately following City's decision. Price quoted must be held firm for 90 days after the RFQ is due. The City reserves the right to make an award without further discussion of the proposal submitted. The City shall not be bound or in any way obligated until both parties have executed a contract. The City also reserves the right to delay the award of a contract or to not award a contract. The RFQ may be awarded by individual task or total proposal, whichever is most advantageous to the City of Raleigh.

The general conditions and specifications of the RFQ and the selected proposal, as amended by agreement between the City and the selected Proposer including e-mail or written correspondence relative to the RFQ, may become part of the contract documents. Failure of the awarded Contractor to perform as represented may result in elimination of the Contractor from competition or in contract cancellation or termination.

2.4 Notice to Proposers Regarding RFQ Terms and Conditions

It shall be the Proposer's responsibility to read the Instructions, the City's terms and conditions, all relevant exhibits and attachments, and any other components made a part of this RFQ, and comply with all requirements and specifications herein. Proposers also are responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this RFQ.

3 SCOPE OF SERVICES

SERVICE #1 – East College Park Project

Design consultant will be asked to provide:

- Single-line, dimensioned sketches (8-1/2" x 11" paper) of ideas for retrofit or design improvements such as adding porches or other additions, changing floor plan or changing the roof line; Building elevation changes.
- Plot plan layout with driveway approach shown and Set backs
- Materials specifications for items like windows and entry doors, porch lights, roof single, and paint colors.
- Schematic-level cost estimates for project design schemes
- There must be enough information for a builder to understand the design intent, but finished construction; drawings are not required.

- Consultations, either on site or by telephone, should be anticipated.
- Miscellaneous Design and Review services as needed, included but not limited to such services as Architectural Design Review, Value Engineering and Design, and UDO interpretation.

Consultant's contract may include work as assigned by the CD Department in each of the following categories:

- Architectural design, design evaluation and design modification
- Conceptual neighborhood design and planning
- May potentially include construction inspection and oversight
- Make a recommendation on whether a property could be salvaged.

Licensed structural engineer maybe required to review changes recommended or initiated by Architect.

FIRM NAME: _____ DATE: _____
 OWNER OR MANAGING PARTNER SIGNATURE: _____

SERVICE #2 – On Call Services

- On Call, miscellaneous Design and Review services as needed, included but not limited to such services as Architectural Design Review, Value Engineering, and UDO interpretation.

Consultant's contract may include work as assigned by the CD Department in each of the following categories:

- Architectural design, design evaluation and design modification
- Conceptual neighborhood design and planning
- May potentially include construction inspection and oversight

Design consultant will be asked to provide:

- Single-line, dimensioned sketches (8-1/2" x 11" paper) of ideas for retrofit or design improvements such as adding porches or other additions, changing floor plan or changing the roof line; Building elevation changes.
- Plot plan layout with driveway approach shown and Set backs
- Materials specifications for items like windows and entry doors, porch lights, roof single, and paint colors – all of which may have to conform to historic preservation guidelines;
- Schematic-level cost estimates for project design schemes
- There must be enough information for a spec-writer or a builder to understand the design intent, but finished construction; drawings are not required.
- Consultations, either on site or by telephone, should be anticipated.

Licensed structural engineer maybe required to review changes recommended or initiated by Architect.

FIRM NAME: _____ DATE: _____
OWNER OR MANAGING PARTNER SIGNATURE: _____

1) APPLICATION A - EVALUATIONS OF DESIGN SERVICES CONSULTANT APPLICANTS

2) Please complete and include all the following required submittal information. Applications must be accurate, comprehensive and timely. Use separate sheets of paper if necessary.

3) Please review Appendix A (attached) to see how evaluators will measure qualifications as part of the final selection process.

4) INFORMATION FOR SUBMISSION OF QUALIFICATION

A. Name of organization:

B. Address of organization:

C. Organization type and status: (check one in each column)

Organization type:

Organization status:

☐ Sole proprietorship

☐ Profit

☐ Partnership

☐ Non-Profit

☐ Corporation

☐ Foundation

D. Contact person:

E. Contact person's phone number:

F. References: Please list three (3) references for whom you have provided specification and construction management services. These can be either home repair clients or agency staff.

1. Name _____ Phone _____

Size of rehab job: \$_____ Date of completion: _____

2. Name _____ Phone _____

Size of rehab job: \$_____ Date of completion: _____

3. Name _____ Phone _____

Size of rehab job: \$_____ Date of completion: _____

5) OUTLINE OF QUALIFICATIONS

In this section, please answer the following questions and/or respond with attached material as requested. If you need additional space simply attach pages and reference the question you are answering.

- 1. Resume(s) of individual(s) who would actually do the work – not necessarily the owner(s) of the firm.**
- 2. A list of related projects completed by each individual within the past 2 years, to include details for each project, approximate costs for each, and photos of examples.**
- 3. A list of at least 3 current references with phone numbers – clients for whom this consultant has performed substantially similar services within the past 2 years.**
- 4. Sample of work-product for other clients which match the specified services of this RFQ.**
- 5. If submitting qualifications for one or more of the services described below, a separate qualification must be submitted for each individual service.**
- 6. Describe any experience you have had as a contractor, general contractor, civil engineer, architect, structural engineer, landscape architect, etc. in the private**

market. More specifically, describe the types and number of projects you were responsible for and specifically what you did. List number of years.

- 7. Discuss your experience (including number of years worked) writing work specifications where Federal Community Development Block Grant (CDBG), HOME, BOND, HOPE or other HUD funds were utilized.**
- 8. How many houses have you worked with over the life of your experience which were funded with HUD funds? _____**

- 9. Have you ever participated in a HUD rehabilitation program audit?**

_____ **Yes** _____ **No**

If yes, how many houses did the HUD auditor inspect and what was the outcome of the audit. Please specify the name of the grantee organization that received the funds from HUD and your relationship with that organization.

4 CONTRACT TERMS

4.1 Non-discrimination

To the extent permitted by State Law, the parties hereto for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation with reference to the subject matter of this Contract. The parties further agree, to the extent permitted by law, to conform to the provisions and intent of City of Raleigh Ordinance 1969-889, as amended. This provision is hereby incorporated into this Contract for the benefit of the City of Raleigh and its residents, and may be enforced by action for specific performance, injunctive relief, or other remedy as provided by law. This provision shall be binding on the successors and assigns of the parties with reference to the subject matter of this Contract.

4.2 Minority or Women Owned Businesses

Pursuant to General Statutes of North Carolina Section 143-128 and 143-131 and to City policy, the City of Raleigh encourages and provides equal opportunity for Certified Minority and Woman-Owned Business Enterprise (MWBE) businesses to participate in all aspects of the City's contracting and procurement programs to include - Professional Services; Goods and Other Services; and Construction. The prime contractor will be required to identify participation of MWBE businesses in their proposal, and how that participation will be achieved.

Furthermore, the City's goal is to contract or sub-contract fifteen percent (15%) of the contract amount to Certified MWBEs on construction projects over \$300,000, or with contracts that include \$100,000 or more in state funding. The goal breakdown is 8% for minorities and 7% for non-minority females.

4.3 Assignment

This Contract may not be assigned without the express written consent of the City.

4.4 Applicable Law

All matters relating to this Contract shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions, and venue for any action relating to this Contract shall be Wake County Civil Superior Court or the United States District Court for the Eastern District of North Carolina, Western Division.

4.5 Insurance

Contractor agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this Contract the following coverages and limits. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Contract.

Commercial General Liability – Combined single limit of no less than \$1,000,000 each occurrence and \$2,000,000 aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.

Automobile Liability – Limits of no less than \$1,000,000 Combined Single Limit. Coverage shall include liability for Owned, Non-Owned and Hired automobiles. In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Auto Liability policy. Automobile coverage is only necessary if vehicles are used in the provision of services under this Contract and/or are brought on a COR site.

Worker's Compensation & Employers Liability – Contractor agrees to maintain Worker's Compensation Insurance in accordance with North Carolina General Statute Chapter 97 with statutory limits and employees liability of no less than \$1,000,000 each accident.

Additional Insured – Contractor agrees to endorse the City as an Additional insured on the Commercial General Liability, Auto Liability and Umbrella Liability if being used to meet the standard of the General Liability and Automobile Liability. The Additional Insured shall read '**City of Raleigh is named additional insured as their interest may appear**'.

Certificate of Insurance – Contractor agrees to provide COR a Certificate of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect, and Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify, when available, by Contractor's insurer. If Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Contractor agrees to notify the City within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. **The Certificate Holder address should read:**

**City of Raleigh
Post Office Box 590
Raleigh, NC 27602-0590**

Umbrella or Excess Liability – Contractor may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability, however, the Annual Aggregate limits shall not be less than the highest 'Each Occurrence' limit for required policies. Contractor agrees to endorse City of Raleigh as an 'Additional Insured' on the Umbrella or Excess Liability, unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a 'Follow-Form' basis.

Professional Liability – Limits of no less than \$1,000,000 each claim. This coverage is only necessary for professional services such as engineering, architecture or when otherwise required by the City.

All insurance companies must be authorized to do business in North Carolina and be acceptable to the City of Raleigh's Risk Manager.

4.6 Indemnity

Except to the extent caused by the sole negligence or willful misconduct of the City, the Contractor shall indemnify and hold and save the City, its officers, agents and employees, harmless from liability of any kind, including all claims, costs (including defense) and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract, and from any and all claims, costs (including defense) and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Contractor in the performance of this Contract. This representation and warranty shall survive the termination or expiration of this Contract.

The Contractor shall indemnify and hold and save the City, its officers, agents and employees, harmless from liability of any kind, including claims, costs (including defense) and expenses, on account of any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Contract.

4.7 Intellectual Property

Any information, data, instruments, documents, studies, reports or deliverables given to, exposed to, or prepared or assembled by the Contractor under this Contract shall be kept as confidential proprietary information of the City and not divulged or made available to any individual or organization without the prior written approval of the City. Such information, data, instruments, documents, studies, reports or deliverables will be the sole property of the City and not the Contractor.

All intellectual property, including, but not limited to, patentable inventions, patentable plans, copyrightable works, mask works, trademarks, service marks and trade secrets invented, developed, created or discovered in performance of this Contract shall be the property of the City.

Copyright in and to any copyrightable work, including, but not limited to, copy, art, negatives, photographs, designs, text, software, or documentation created as part of the Contractor's performance of this project shall vest in the City. Works of authorship and contributions to works of authorship created by the Contractor's performance of this project are hereby agreed to be 'works made for hire' within the meaning of 17 U.S.C. 201.

4.8 Force Majeure

Except as otherwise provided in any environmental laws, rules, regulations or ordinances applicable to the parties and the services performed under this Contract, neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign actions, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God. Either party to the Contract must take reasonable measures and implement reasonable protections when a weather event otherwise defined as a force majeure event is forecast to be eligible to be excused from the performance otherwise required under this Contract by this provision.

4.9 Advertising

The Contractor shall not use the existence of this Contract, or the name of the City of Raleigh, as part of any advertising without the prior written approval of the City.

4.10 Cancellation

The City may terminate this Contract at any time by providing thirty (30) days written notice to the Contractor. In addition, if Contractor shall fail to fulfill in timely and proper manner the obligations under this Contract for any reason, including the voluntary or involuntary declaration of bankruptcy, the City shall have the right to terminate this Contract by giving written notice to the Contractor and termination will be effective upon receipt. Contractor shall cease performance immediately upon receipt of such notice.

In the event of early termination, Contractor shall be entitled to receive just and equitable compensation for costs incurred prior to receipt of notice of termination and for the satisfactory work completed as of the date of termination and delivered to the City. Notwithstanding the foregoing, in no event will the total amount due to Contractor under this section exceed the total amount due Contractor under this Contract. The Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract, and the City may withhold any payment due to the Contractor for the purpose of setoff until such time as the City can determine the exact amount of damages due the City because of the breach.

Payment of compensation specified in this Contract, its continuation or any renewal thereof, is dependent upon and subject to the allocation or appropriation of funds to the City for the purpose set forth in this Contract.

4.11 Laws/Safety Standards

The Contractor shall comply with all laws, ordinances, codes, rules, regulations, safety standards and licensing requirements that are applicable to the conduct of its business, including those of Federal, State, and local agencies having jurisdiction and/or authority.

All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of the appropriate safety standard organization, such as the American Society of Mechanical Electrical Engineers for pressure vessels; the Underwriters' Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type(s) of devices offered and furnished. Further, all items furnished by the Contractor shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

Contractor must comply with *North Carolina Occupational Safety and Health Standards for General Industry, 29CFR 1910*. In addition, Contractor shall comply with all applicable occupational health and safety and environmental rules and regulations.

Contractor shall effectively manage their safety and health responsibilities including:

A. Accident Prevention

Prevent injuries and illnesses to their employees and others on or near their job site. Contractor managers and supervisors shall ensure personnel safety by strict adherence to established safety rules and procedures.

B. Environmental Protection

Protect the environment on, near, and around their work site by compliance with all applicable environmental regulations.

C. Employee Education and Training

Provide education and training to all contractors employees before they are exposed to potential workplace or other hazards as required by specific OSHA Standards.

4.12 Applicability of North Carolina Public Records Law

Notwithstanding any other provisions of this Contract, this Contract and all materials submitted to the City by the Contractor are subject to the public records laws of the State of North Carolina and it is the responsibility of the Contractor to properly designate materials that may be protected from disclosure as trade secrets under North Carolina law as such and in the form required by law prior to the submission of such materials to the City. Contractor understands and agrees that the City may take any and all actions necessary to comply with federal, state, and local laws and/or judicial orders and such actions will not constitute a breach of the terms of this Contract. To the extent that any other provisions of this Contract conflict with this paragraph, the provisions of this section shall control.

4.13 Miscellaneous

The Contractor shall be responsible for the proper custody and care of any property furnished or purchased by the City for use in connection with the performance of this Contract, and will reimburse the City for the replacement value of its loss or damage.

The Contractor shall be considered to be an Independent Contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. Nothing herein is intended or will be construed to establish any agency, partnership, or joint venture. Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such employees shall not be employees of or have any individual contractual relationship with the City.

This Contract may be amended only by written agreement of the parties executed by their authorized representatives.

4.14 Audit

The City of Raleigh Internal Audit Office may conduct an audit of Contractor's financial, performance and compliance records maintained in connection with the operations and services performed under this Contract. The City or its designee may conduct such audits or inspections throughout the term of this Contract and for a period of three years after final payment or longer if required by law.

In the event of such an audit, Contractor agrees that the City, or its designated representative, shall have the right to review and to copy any work, materials, payrolls, records, data, supporting documentation, or any other sources of information and matters that may in City's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract Document. The Contractor agrees that the City, or its designated representative, shall have access to Contractor personnel pertaining to the performance of this contract, including but not limited to financial, performance, operations and compliance records.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the City's auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. City's authorized representative or designee shall have reasonable access to the Contractor's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Contract and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with this article. Further, Contractor agrees to include a similar right to the City to audit and interview staff in any subcontract related to performance of this contract.

Contractor shall require all payees to comply with the provisions of this article by including the requirements hereof in a written contract agreement between Contractor and payee. Contractor will ensure that all payees have the same right to audit provisions contained in this Contract.

The City agrees to provide Contractor with an opportunity to discuss and respond to any findings before a final audit report is issued.

City's rights under this provision shall survive the termination of this agreement. The City may conduct an audit up to three years after this agreement terminates.

4.15 E-Verify

Contractor shall comply with E-Verify, the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law and as in accordance with N.C.G.S. §64-25 et seq. In addition, to the best of Contractor's knowledge, any subcontractor employed by Contractor as a part of this contract shall be in compliance with the requirements of E-Verify and N.C.G.S. §64-25 et seq.

4.16 Iran Divestment Act Certification

Contractor certifies that, as of the date listed below, it is not on the Final Divestment List as created by the State Treasurer pursuant to N.C.G.S. § 147-86.55, *et seq.* In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 147-86.59, Contractor shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List.